

**In Pursuit of Higher Pleasures:
The Moral Value of Criminalizing Drug Users and the Utilitarian
Case for Decriminalization**

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Introduction

Drug use has been blamed for an almost endless list of human problems including violence, child abuse, unemployment, domestic abuse, and property crime, all of which have existed and persisted throughout the history of humanity. The prohibitionist framework that has governed drug policy in Canada since the 1900's serves to eliminate the use of illicit substances through a process of enforcement and criminalization (Malleck 220). This framework was largely established on moralistic and paternalistic grounds rather than evidenced-based best practices (Malleck 167). It represented an approach that sought to condemn and criminalize drug users for participating in an activity that was believed to cause and promote harm. The prohibitionist approach assumes the capacity for individual moral responsibility and the value of criminalizing drug users is largely justified on the perceived moral failings of people struggling with addictions.

A basic presumption of morality is that we can only be morally responsible for that which is within our control, often understood as ought implies can (Nagel 1). However, the capacity to control the conditions and circumstances of life are not equal for all people. There are many pathways to drug dependence and addiction but many are influenced or determined by the existence of various forms of moral luck, as outlined by Thomas Nagel. There is nothing inherently immoral about the use of psychoactive substances, but we continue to criminalize drug users with the mistaken belief that stigmatizing them and marginalizing them further will change their behavior. While we do not necessarily need to absolve those struggling with addictions for the harms that they cause, we can work towards a decriminalization and harm-reduction framework that supports those with addictions, an approach that does not marginalize or criminalize them, and that ultimately produces less harmful consequences or the greatest good

for the greatest number.

The prohibitionist and war-on-drugs approach to addiction assumes the capacity for individual moral responsibility: that people are capable of just saying no (Reed 152). While this is true for many people, it is not so for all people. This moral assumption follows Bernard Williams' analysis of Kant in that, the moral certitude of the Kantian perspective implies that everyone, no matter their place in society, is capable of striving for moral perfection and each possesses the same capacity to make correct moral choices (Reed 153). According to Kant, a bad will cannot be redeemed by a good outcome. Similarly, a good will cannot be diminished by a bad outcome (10). Here, prohibition represents the deontological approach in which goodness is composed of interior virtues that cannot be subverted or undermined by a mere change in circumstance (Reed 155). It is also true that our thoughts and beliefs are influenced by external and internal process (Nagel 3). The beliefs that shape and support policies of prohibition are also influenced by a society in which prohibition has been the normative approach to substance abuse. A society that criminalizes, stigmatizes, and marginalizes people who use drugs will normalize these perceptions and inevitably produce subjects that will in turn, criminalize, stigmatize, and marginalize drug users.

Understanding the Concept of Moral Luck

According to Thomas Nagel, "where a significant aspect of what someone does depends on factors beyond his control, yet we continue to treat him in that respect as an object of moral judgement, it can be called moral luck" (2). The existence and acceptance of moral luck seems to contradict the deeply held and widely accepted notion that morality is not dependent upon external circumstances, also known as the control principle (Nagel 1). However, in practice, our

assessments of moral blame and praise do not align with this seemingly evident principle (Hartman, "Against Luck-Free Moral," 2847) given that much of what we do does depend upon factors that are beyond the scope of our control and cannot be understood as the result of a good or bad will (Nagel 1). There are rarely actions or choices in life that can be made entirely on the basis of personal virtue, that is, without external intervention or the existence of moral luck (Nagel 2).

According to Nagel, there are four types of moral luck to consider in determining the degree to which an action or actor deserves moral blame or praise. Constitutive luck has to do with the type of person one is, their character traits, inherent inclinations, and emotional temperament while circumstantial luck has to do with the external problems and situations one faces (Nagel 3). Casual luck describes luck as it is determined by prior events and resultant luck is defined by the ways in which one's actions and projects turn out (Nagel 3). The various pathways to addiction are complex and interrelated, such as inter-generational trauma, genetic predispositions, or poverty but many are influenced or determined by the various interactions between resultant, circumstantial, causal, and constitutive moral luck.

The Paradox of Moral Luck

The problem of moral luck or the paradox of moral luck, as described by Nagel, is essentially the issue of free will. Donna Dickenson writes: "the paradox of moral luck concerns the simultaneous requirements that we should be held responsible for what we can control and that we should realize people often cannot control very much" (160). Nagel endorses this paradox by "affirm[ing] the requirements that are impossible to satisfy and still believ[ing] that we are morally responsible for at least some of what we do," (Hartman, "Moral Luck and the

Unfairness” 6). Williams also addresses this paradox, writing that:

One’s history as an agent is a web in which anything that is the product of the will is surrounded and held up and partly formed by things that are not, in such a way that reflection can go only in one of two directions: either in the direction of saying that responsible agency is a fairly superficial concept, which has limited use in harmonizing what happens, or else that it is not a superficial concept, but that it cannot ultimately be purified. (44-45)

Claims that extend the absence of control and ascribe all actions to conditions of moral luck threaten to undermine the concept of moral responsibility by rejecting the possibility for free will and rendering responsibility itself difficult to define (Nagel 2). According to Nagel, “ultimately, nothing or almost nothing about what a person does appears to be under his control” (2). The belief that “there is no absolute equality of moral opportunity,” contradicts the often deeply held intuition that morality is immune to conditions of luck (Hartman, “Moral Luck and the Unfairness” 10).

Drug-Related Harm and Prohibition-Related Harm

At the legal and political level, addiction has been singularly framed as the abuse of unlawful psychoactive substances, an approach which Robin Mackenzie, a professor and researcher with the University of Kent, deems to be profoundly unhelpful and unproductive (103). As she notes, not all psychoactive substances are inherently addictive, not all addictive psychoactive substances are illegal, not all addictions are caused by psychoactive substances, and excessive consumption of a psychoactive substance does not necessarily constitute addiction (Mackenzie 103). These are necessary distinctions to make given the social acceptance and

legality of some psychoactive substances and the arbitrary criminalization of others. Cigarettes and alcohol are widely available and accessible. Even though over-consumption of energy drinks has resulted in seizures and other adverse health effects (Iyadurai & Chung 506), there are currently no restrictions on the purchase of products with dangerous levels of caffeine and other stimulants. Increasingly, psychedelic drugs, such as LSD and ketamine, are being used in clinical settings to treat psychiatric disorders and other mental health issues (Marks 74). Distinct substances warrant distinct regulatory structures but whether a substance is deemed socially acceptable or criminal depends more upon the current social and political context than the psychoactive effect of a given substance.

Historically, opium and opium derivatives have been used for a variety of religious, ritualistic, pleasurable, and medical purposes (Zhu & Ali 32), but have more recently been the target of strict government regulation in the wake of increasingly dangerous synthetic opioids such as fentanyl and carfentanyl. Prior to the enactment of federal drug legislation in Canada, the regulation of toxic substances was controlled by provincial laws governing pharmaceutical practices. In most legislation, “poison schedules” were created in order to index toxic substances such as opium, arsenic, ether, and “Indian hemp,” (Malleck 74, 76). The responsibility for labelling, administering, and controlling such substances lay with the individual pharmacies rather than any federal regulatory body or enforcement agency (Malleck 77). Initial restrictions on opium stemmed, in part, from a prejudice that Canadian settlers felt towards Chinese immigrants, who were seen to be “eager to make money and inveterately fond of gambling, opium, smoking, and other pernicious indulgences,” (Malleck 86). Magazines and literary journals of the time detailed “the deplorable effects of opium smoking,” and “the deadly habit of opium smoking,” imported from Asia (Malleck 86). These attitudes influenced the consequential

legislation that placed opioids and other illicit substances under the authority of the prohibitive *Opium and Drug Act*. This legislation effectively served to punish drug use and addiction with arrest and confinement while simultaneously delegitimizing the physicians who sought to address addiction as a medical issue (Zhu & Ali 32). Similarly, cannabis prohibition was the result of a moral panic about the perceived societal harms of marijuana use (Turner). In 1922, Emily Murphey published her book, *The Black Candle*, in which she makes racist arguments against various types of drug use, but states that marijuana specifically turns its users into homicidal maniacs (Murphy 333). In this way, the legal construction of drugs and the creation of their illegality was a regulatory concept, supported and upheld by moral assumptions and judgements about drug use and drug users (Bone 24).

Drug use and addiction were represented by both media and the government as a social contagion which also classified drug users as criminal addicts that were to be demonized and dehumanized (Zhu & Ali 32). Prior to the *Opium Act*, magazines and journals detailed the state of so called “morphinomaniacs” who experienced:

Rapid degeneracy, both physical, mental, and moral, sets in. The body takes on a lean, emaciated appearance. The brain loses its power. The conscience becomes debauched. The victim very speedily can neither speak the truth nor do the right. The morphia habit, we are told, frequently transforms the tenderest affection into hate. (Malleck 217)

In demonizing the drugs themselves and labelling those who consume them as criminals and moral deviants, prohibition readily created a population of stigmatized, marginalized, and criminalized others.

Historically, and in the current debate on legalization in many jurisdictions, prohibitionists have argued that increasing access to illicit substances, especially opioids, will

lead to greater instances of crime and violence, essentially reducing legalization to an issue of public safety. The perceived benefit of crime prevention associated with prohibition is its main practical argument, although there has not been sufficient evidence from permissive jurisdictions to support this conclusion (Dragone *et al.* 12). Many in favour of continuing to criminalize drug use wrongly assume that crime and violence related to drugs is directly caused by drug use itself rather than the social, political, and economic factors that structure and define what constitutes problematic substance use. Lawyer and author James Ostrowski, states in his article, *The Moral and Practical Case for Drug Legalization* that “It is a mark of naiveté – not science – to mistake the behaviour of some drug users with the pharmacological effects of the drug” (621).

Accordingly, the majority of drug-related crime and violence are directly related to the prohibition of the substance rather than the substance itself. The connection between economic and property crime is not in dispute, but these effects are largely attributable to drug laws, prohibitionist policies, and the socio-economic conditions and marginalized social positions of drugs users and not the physiological properties of the drug itself (Ostrowski 621). In many cases, violence becomes the tool of black-market drug dealers to protect their businesses since they do not have access to traditional methods of competition, dispute resolution, or redress through the court system (Ostrowski 681). In this way, drug-related violence is effectively prohibition-related violence.

In comparison with the position of Thomas Nagel on moral luck, the beliefs that guide prohibitionist policies also create a similar paradox. Prohibitionists emphasize the addictive nature of illegal drugs, while at the same time, arguing that strict law enforcement and criminal penalties will dissuade people from starting or continuing to use drugs (Ostrowski 622). That is, prohibitionists believe that people are not reasonable or strong-willed enough to avoid being

seduced by drugs, but simultaneously believe that people will make a rational cost-benefit decision to avoid using illicit substances because of the potential criminal penalties involved (Ostrowski 622). This presents a contradictory argument for prohibition based on a contradictory view of addiction. With the invasive nature of drug-enforcement practices, prohibition also imposes significant costs on the liberty of many non-drug using citizens in the failed attempt to protect a comparably small group of people struggling with addiction from the perceived harms of their addiction (Ostrowski 622). It is irrational, ineffective, and unjust to force those people to accept such costs so that others might be prevented from choosing to harm themselves. Ultimately, the harms caused by illegal drug use is minimal, especially when compared to the harms of the laws governing illegal drugs.

Praise and blame are not really about moral responsibility, but about encouraging and discouraging certain behaviours. This is similarly the objective of prohibition, which criminalizes drug use and consequentially, criminalizes drug users. Moral praise and blame effectively function as deterrents. For example, as a society, we make examples of impaired drivers through the imposition of strict criminal penalties with the supposed goal of deterring future impaired driving incidents, through general and specific deterrence. However, like the goal of drug prohibition, this deterrence is largely ineffective (Cabral 2). In the absence of an adequate framework, the issue of the harms caused by drug use remains relevant. However, if we believe in the existence of moral luck and accept a limited place for free will, the negative consequences of substance abuse cannot be the sole responsibility of those people struggling with addiction. This perspective does not resolve the paradox of moral luck, but presents the concept as a counterbalance to the perception of addiction as an absolute personal and moral failure.

A Utilitarian Resolution to the Problem of Moral Luck and Drug Use

In order to resolve the issue of moral luck, the utility of unquestioning adherence to the control principle must be undermined. The acceptance of luck-free moral responsibility implies that agents deserve equal praise or blame if the only difference between their actions is the result of constitutive, circumstantial, casual, or resultant luck (Hartman, "Against Luck-Free Moral" 2847). In the pragmatic example of impaired driving, wherein one person may drive home drunk without incident while another person under the same conditions may end up hitting and killing a pedestrian, both agents should receive the same degree of moral blame. Given that each made the decision to drive while impaired but neither intended to hurt anyone, the presence of the pedestrian was simply the result of circumstantial moral luck. If we accept this general principle, we must therefore assess and be assessed as morally blameworthy or praiseworthy based on our free actions but also in virtue of our counter-factual free actions or, what we might have done under different circumstances (Hartman, "Against Luck-Free Moral" 2847). However, in practice, such as the prosecution of impaired driving cases, actual assessments of praise and blame do not align with this principle. This means that despite disputing the existence of moral luck, those who support luck-free moral responsibility cannot reject the existence and influence of circumstantial moral luck.

In an attempt to resolve this conflict with regard to other forms of moral luck, those who support the absolutely fair concept of moral responsibility have outlined the views attributed to direct and indirect constitutive luck (Enoch & Marmor 426). Wherein direct constitutive luck describes non-voluntarily acquired traits and dispossessions, indirect constitutive luck occurs when those same non-voluntarily acquired traits and dispossessions influence decisions, actions, and behaviors (Enoch & Marmor 426). Furthering this distinction, direct constitutive moral luck

would concern the praiseworthiness or blameworthiness of certain traits and dispossessions while indirect constitutive moral luck would concern praiseworthiness and blameworthiness relating to actions (Hartman, “Against Luck-Free Moral” 2848). This approach lends itself to a utilitarian perspective on the issue of moral luck. By eliminating direct constitutive moral luck, defined as praise and blame concerning dispossessions, praise and blame are then determined solely based on the action and not the character of the actor (Hartman, “Against Luck-Free Moral” 2848).

Utilitarianism may also reject the concept of luck-free moral responsibility because it is not practical. In other words, it has limited utility. In order to blame those who are appropriately deserving of blameworthiness, the blameworthy action must be detectable. For example, in order to appropriately blame the impaired driver, the action of impaired driving must be detected, whether by the public or by law enforcement. In a society that holds people both morally and legally responsible for their actions, we cannot also hold people responsible for what they may do under different circumstances or if they possessed other character traits (Hartman, “Against Luck-Free Moral” 2849). Applying abstract moral praise or blame when there is no consequence arising from that praise or blame, whether positive or negative, is an unproductive exercise. Hartman concludes that the concept of luck-free moral responsibility has “little to recommend beyond principle-level intuition” (2850). It does not and cannot offer practical assessments of moral praise and blame because it offers potentially unlimited ascriptions of responsibility. For Hartman,

An agent is praiseworthy or blameworthy in virtue of any action she would freely perform in counterfactual circumstances. And because there is an infinity of such circumstances, the agent is plausibly praiseworthy and blameworthy in virtue of an

infinite number of counterfactual free actions. And if an agent is praiseworthy or blameworthy in virtue of an infinite number of counterfactual free actions, she is infinitely praiseworthy and blameworthy, which is very counterintuitive. (2852)

The utility of the control principle is thus limited by our individual and collective capacity for assessments of moral responsibility.

From a utilitarian perspective, moral blame becomes relevant only in the consequences of decisions that result in harm or injury. Therefore, a utilitarian resolution to the paradox of moral luck would hold that it is the consequences of an action that determine whether an action is deserving of moral blame or praise. In the practical case of drunk or drug-impaired driving, one can be considered morally blameworthy and thus deserving of punishment without causing harm because moral blame and praise are not truly about ascribing appropriate blame but about encouraging and discouraging certain behaviours. From this perspective, the addicted person who drives while impaired or drops a used needle in a public space is not morally blameworthy for their addiction, but can be considered morally blameworthy for the harmful consequences that may arise from that addiction, following the utilitarian view that an action is good or bad based on its consequences.

Further, in *An Introduction to the Principles of Morals and Legislation*, Jeremy Bentham establishes circumstances which determine the intentionality of a given action and consequently, the praiseworthiness or blameworthiness of a given actor (70). To some degree, Bentham endorses the concept of moral luck in his descriptions of the circumstances that influence individual sensibilities given that these circumstances “constitute the latent groundwork which the other supervising circumstances have to work upon” (51). In this way, Bentham acknowledges that while actions cannot be exclusively attributed to the effect of external

circumstances, such circumstances still constitute an essential element in determining moral praise, blame, or sanction (52).

Psychologist and addictions expert Gabor Mate does not suggest that we absolve all addicts of responsibility for their behaviours, but that these behaviours should be avoided rather than excused because “in the real world, will, choice, and responsibility are not absolute and unambiguous concepts” (174). Drug use is not a behaviour that automatically deserves blame or praise, but blame frequently arises from the public perception that addiction constitutes a moral failure. In this way, moral and legal blame is used to discourage behaviours that produce tangible harms. However, under a decriminalization and harm-reduction framework, these harms would be heavily mitigated and would not exist on the same scale. For example, findings from Insite, Canada’s first safe injection site, demonstrate that the facility has resulted in greater client enrollment in detox and methadone programs, greater access to healthcare for vulnerable groups, fewer used needles in public spaces, and fewer overdose deaths and infections related to intravenous drug use (Urban Health Research Initiative, 27, 30, 31). The prioritization of treatment over criminal punishment would lower rates of drug use and addiction overall (Cabral, 3). The existence of safe injection sites gives people struggling with addiction the practical tools, resources, and knowledge to minimize the individual and societal harms of their personal drug use (Harm Reduction Coalition). However, it is important to remember that although safe injection sites function as health services, many of the social and medical harms associated with drug use arise from stigmatization and criminalization, not from the medical understanding of addiction (Ben-Ishai 1).

Decriminalization is the practical way to reduce the harms associated with drug use. When we stop criminalizing drug users, we lessen the necessity of moral and legal blame. We

replace the perception of moral failure with the acceptance of circumstantial, constitutive, causal, and resultant luck. Whether holding a drug user morally or criminally responsible for their drug use, the fact remains that neither have the effect of limiting or erasing drug use. Evidenced-based best practices, such as the decriminalization of illicit drug in Portugal or harm-reduction services in Canada, have demonstrably shown themselves to be successful according to their established goals (Cabral, 3). In this way, a decriminalization and harm-reduction approach to substance use and addiction is the embodiment of utilitarianism in practice.

The Failures of Prohibition

Compared to harm-reduction, a framework which accepts drug use as an essentially inevitable feature of human societies, the central premise of prohibition is its potential for eliminating all drug use, production, and distribution (Bone 23). Prohibition as an over-arching approach to the elimination of drug use has not only demonstrated the inefficacy of law enforcement as a mechanism to achieve this goal, but has also highlighted several unintended effects that further undermine prohibition as a solution to the perceived harms of drug use and addiction. Frequently, drug enforcement and restriction simply shift drug users away from one substance and towards another, a phenomenon known as substance displacement (Bone 24). Here, the drug user does not receive the offer of treatment and continues to be criminalized by the same law enforcement structure, only for a different substance. Similarly, strict enforcement does not eliminate production, transit, and supply but simply moves it to another location. Prohibitionists endorse a strict criminal framework, supported by law enforcement, with the aim of eliminating supply in order to eliminate demand (Shane). However, this approach ignores the fact that drug markets do not materially differ from any other economic market where supply is

driven by demand (Shane). Perhaps the most damaging effect of prohibition is the massive draw on financial and technical resources that are necessary to enforce and maintain it. Such resources are frequently diverted away from healthcare and social supports to meet the perceived demands of law enforcement (Bone 24). For many jurisdictions, the abject failure of prohibition in eliminating substance abuse and the unintended negative consequences arising from enforcement have resulted in the growth and expansion of alternative policies intended to address the harms of drug use as well as the harms inflicted by prohibition itself (Bone 24).

Additionally, the expansion of medical cannabis regimes and the increased adoption of regulatory frameworks for recreational cannabis use contradict the prohibitionist belief that cannabis is uniquely dangerous and destructive (Turner). While recreational cannabis has recently been made legal in Canada and several states in America, the United States' federal Drug Enforcement Administration (DEA) considers both cannabis and heroin to be in the same category of Schedule I substances. According to the DEA, "Schedule I drugs, substances, or chemicals are defined as drugs with no currently accepted medical use and a high potential for abuse" ("Drug Scheduling"). The existence and expansion of medical and recreational cannabis frameworks at the state level undermine the federal policies and legislation that serve to equate cannabis and heroin in terms of pharmacological effect and addictive potential (Drug Enforcement Administration). While early drug laws made clear distinctions between illegal narcotics and medicinal substances, the use of cannabis and psychedelics in medical treatment undermines the inherent harm associated with drug use and highlights the arbitrary distinction between legal and illegal drugs.

The ideological commitment to prohibition and the moralizing discourse that frequently accompanies it, is perhaps the most insidious aspect of such paternalistic approaches to drug

abuse. It is not the effect of the substance itself that is most damaging, but the continued support for a prohibitionist regime that is both harmful and unsuccessful. In effect, “the laws designed to solve the drug problem are the drug problem,” (Weil). Weil continues:

Everything we do in the name of stopping the drug problem is the drug problem. Its not just the laws but the whole mentality that sees drugs as the problem and tries to fight them. . . We’ve made more people abuse more drugs in worse and worse ways. . . Its all a consequence of our trying to fight drugs.

In this way, a significant barrier to the creation of more effective, less punitive drug policies and frameworks is the unwavering belief in prohibition and criminalization as the ideal means to address the harms associated with drug use.

Decriminalization and Harm-Reduction

Given that drug possession, sale, and distribution are illegal in most jurisdictions, drug use has predominately been viewed as a criminal justice issue. However, the United Nations Office on Drugs and Crime has stated that the law is “a very blunt instrument” with which to address drug use and addiction. Harm-reduction represents a more relational approach to addiction, one that prioritizes health and well-being rather than the strict enforcement of laws, and presents an alternative to the moral lens that can often dominate drug policy decisions (Ben-Ishai 43). It expands upon the medical model of addiction to meaningfully include and address the psychological, social, and cultural dynamics of drug use (Ben-Ishai, 43). While there is not a universal definition of harm-reduction, there is a generally agreed upon set of principles that seek to reduce the immediate harms associated with illicit drug use. These principles acknowledge that the legal prohibition of narcotics and the social stigma of addiction contribute to the

difficulties that addicted persons face in accessing services and treatment (Centre for Addiction and Mental Health). Harm-reduction practices recognize the spectrum of drug-related behaviours, encompassing complete abstinence to severe abuse, and attempts to support drug users at every stage of addiction and recovery, without condition (Centre for Addiction and Mental Health). It affirms drug users themselves as the primary agents of reducing the harms of their drug use and seeks to empower them with practices that meet the realities of their drug use (Harm Reduction Coalition).

The principles of harm-reduction also call for the non-judgemental delivery of services and encourage the inclusion of drug users in the creation of the programs and policies designed to serve them (Harm Reduction Coalition). Most importantly, harm-reduction frameworks recognize that the realities of poverty, racism, social isolation, past trauma, sex-based discrimination, and other social inequities affect individual vulnerability to and capacity for effectively dealing with drug-related harm (Harm Reduction Coalition). While abstinence-based models further marginalize this vulnerable population, harm-reduction strategies attempt to support those struggling with addiction at each stage of their addiction and grant them the basic recognition of their dignity and humanity (Elliot *et al.* 16). The idea that many people use drugs as a coping mechanism for stress and trauma is not new but the understanding of addiction as a symptom of larger psychosocial issues has significant implications for the clinical treatment and societal acceptance of people who use drugs (Mate 2). As noted by Weil:

Drugs also have the great advantage of making people go away satisfied, so there's an enormous appeal to both doctors and patients. But unless you're also doing something to deal with the problems, drugs tend to be very bad medicine because when the drug wears off the person feels terrible again. . . It's not a good way to make people feel

better unless you're doing something for the underlying problem.

Reasons for drug use are complex and so are the necessary responses (Elliot *et al.* 16). In this way, decriminalization and harm-reduction represent a practical, realistic, and compassionate approach to treatment and care (Elliot *et al.* 8).

The Right to Use Drugs

A rights-based approach to drug enforcement and regulation has been put forward as an alternative to prohibition, which may be particularly salient in the Canadian context with the entrenchment of the *Canadian Charter of Rights and Freedoms* in 1982 (International Centre on Human Rights and Drug Policy). Similar to the right to refuse necessary medical treatment established on principles of consent and bodily integrity, the choice to use drugs is an individual decision (Ostrowski 616). Even if the cost-benefit analysis does not make rational sense to others, the right to bodily integrity and self-determination is paramount. What is being asserted is not a narrow right to use drugs, but a right to self-determination, a right to engage in any action that is peaceful and does not deprive others of their right to free action (Ostrowski 625). The right to use drugs is simply one aspect of the more general right to freedom and free action (Ostrowski 625). According to James Ostrowski:

Rights are a concept to determine the limits of and boundaries of human interaction wherein no person has the right to initiate the use of force against another human being. The use of force and coercion against the individual is the violation, as the right to be free from such force is the ultimate social principle. (625)

No other rights can justifiably use coercion, aggression, or force as the basis for their engagement (Ostrowski 629). If the goal of prohibition is to save people from addiction, the

force of coercion against the individual undermines that very goal. It is precisely force that prevents people from achieving what is in their own best interest because “in restricting opportunity for vice, we simultaneously restrict the opportunity for virtue. . . By attempting to compel virtue, we eliminate its possibility” (Ostrowski 633). Those who use coercion to achieve their goals will only achieve these goals to the extent that coercion is able to achieve them (Ostrowski 639). As written by John Stuart Mill:

The only freedom which deserves the name is that of pursuing our own good in our own way, so long as we do not attempt to deprive others of theirs, or impede their efforts to obtain it. Each is the proper guardian of his own health, whether bodily, mental, or spiritual. Mankind are greater gainers by suffering each other to live as seems good to themselves, than by compelling each to live as seems good to the rest. (18)

Similarly, Bentham notes that “No man can be so good a judge as the man himself, what it is that gives him pleasure or displeasure” (135).

Further, many violations of human rights are carried out in the name of prohibition (Bone 26). Globally, oppressive governments have used the death penalty and various forms of corporal punishment to enforce their drug laws in addition to the denial of basic health care, the use of arbitrary detention and forced labour, the denial of due process, and the promotion of discrimination in arrest and enforcement (Bone 26). In liberal democratic societies, such as Canada, the criminal punishment for using illegal drugs is often a financial penalty or jail term, with longer sentences for production and trafficking (Controlled Drugs and Substances Act). While such penalties may seem reasonable in comparison to those of more oppressive jurisdictions, the effects of criminalization and the stigma of drug use in most modern societies can be psychologically, socially, and economically devastating. Even many health concerns

associated with drug use are a product of the social construction of addiction (Ben-Ishai 41).

While Canada acknowledges the potential for harm in illicit drug use, such as addiction and negative mental health effects, policies such as legalization and decriminalization have been demonstrably shown to reduce such harms (Cabral 3). The recent legalization of cannabis in Canada is itself an acknowledgement of the harms of cannabis prohibition. Alcohol prohibition did not end alcoholism. Similarly, drug prohibition will not end drug addiction (Ostrowski 647). The conditions for meaningful expressions of individual agency are increasingly limited under the conditions of prohibition. Prohibition has not only failed to undermine the realization of progressive drug policies, but has highlighted the ways in which prohibitionist policies have contributed to the very harms they seek to prevent and have undermined the agency of the same individuals they seek to empower. A utilitarian perspective would maintain that decriminalization policies and harm-reduction practices are good insofar as they produce the greatest happiness for the greatest number (Mill 55). The outcomes of decriminalization in Portugal, as well as the positive effects of legalization and harm-reduction practices in permissive jurisdictions, effectively meet this standard, as they have been largely positive, objectively proven, and successful according to their established goals (Cabral 3). Thus, in following the principle of utility outlined by Jeremy Bentham and John Stuart Mill, communities and governments should support the implementation of less punitive, more compassionate approaches to substance use and addiction, including decriminalization and harm-reduction.

The Utilitarian Case for Decriminalization

According to the Greatest Happiness Principle of utilitarianism, John Stuart Mill claims that “actions are right in proportion as they tend to promote happiness and wrong as they tend to

produce the opposite of happiness. By happiness is intended pleasure, and the absence of pain; by unhappiness, pain and the privation of pleasure” (Mill 55). Departing from the quantitative approach to utilitarianism proposed by Jeremy Bentham, Mill argued that, “It is quite compatible with the principle of utility to recognize that certain kinds of pleasure are more desirable and more valuable than others” (11). Also in opposition to Bentham, Mill argues for the existence of higher and lower pleasures by stating that it:

Is a sense of dignity, which all humans possess in one form or other, and in some. . . proportion to their higher faculties, and which is so essential a part of the happiness of those in whom it is strong, that nothing which conflicts with the it could be, otherwise than momentarily, an object of desire to them. (57)

Mill goes on to write that:

Many who are capable of the higher pleasures, occasionally under the influence of temptation, postpone them to the lower. But this is quite compatible with the intrinsic superiority of the higher. Men, often from infirmity of character, make their election for the nearer good, though they know it to be less valuable. (58)

Here, Mill includes the nature of the pleasure, for which opioid use and addiction have many negative consequences, in determining the value and desirability of what constitutes a pleasurable experience. Opioid use and its association with addiction should be constituted as a lower pleasure in opposition to health and well-being, but this does not represent a moral failure on the part of the drug user. Mill continues:

Capacity for the nobler feelings. . . speedily dies away if the occupations to which their position in life has devoted them, and the society into which it has thrown them, are not favourable to keeping that higher capacity in exercise. . . They addict themselves to

inferior pleasures, not because they prefer them but because they are either the only ones to which they have access or the only ones to which they are any longer capable of enjoying. (58)

Following Mill, in that the nature of the pleasure is to be considered as well, we can compare the lower bodily pleasures of opioid use with higher pleasures such as health and happiness, recognizing that people struggling with addiction may have complex relationships with both. That at times, the positive effects of the lesser pleasures are more immediately available and that some may not have the capacities to work towards the attainment of the higher pleasures (Mill 58).

Bentham writes on the various kinds of pleasures and pains (35). He notes fourteen simple pleasures to which human nature is susceptible including the pleasures of sense, the pleasures of wealth, and the pleasures of power (35). The twelve simple pains Bentham details include the pains of privation, the pains of memory, and the pains dependant on association (36). Perceptions of experience may be grounded upon pleasures alone, upon pains alone, of a pleasure or pleasures and a pain or pains together (Bentham 35). There are also many pains grounded in the excess of pleasure and many pleasures grounded in the excess of pain (Bentham 38). The pleasure of relief, wherein the experience of enduring pain cease comes to an end, is one such instance (Bentham 38). The pain of an unsatisfied desire, wherein “when the enjoyment of a particular pleasure happens to be particularly desired but without any expectation approaching assurance,” is another (Bentham 38). The pleasures of relief and the pains of unsatisfied desire are defining experiences of substance use, addiction, and withdrawal. If we understand happiness as intended pleasure and the absence of pain, opioid addiction can be understood as a means to secure freedom from pain, both physical and emotional (Mill, 55).

Further, harm-reduction practices can be viewed as a means to avoid specific kinds of pain such as infection or overdose, while also promoting the higher pleasures of mental and physical health, safety, and well-being.

From a harm-reduction perspective, “it is unethical to demand from someone something of which they are physically and mentally incapable,” (Elliot *et al.* 6). In contrast, the prohibitionist approach seeks to enforce a strong public moral sensibility, so that “the pains and pleasures of the moral sanction show greater in [their] eyes, in comparison with other pleasures and pains, and consequently, exert a greater influence” (Bentham 44). Indeed, there are people who use drugs and people with addictions who are able to successfully cease their drug use and maintain abstinence, evidencing the potential for such agency. However, these accounts rarely consider the multitude of circumstances that may serve to expand or limit the capacity of individuals for meaningful expressions of this agency (Ben-Ishai 51). According to Bentham, it is the bias of one’s sensibility, defined as “the disposition which anyone has to have the proportion in which he is affected by two such causes, different from that in which another man is affected by the same causes,” that determine individual experiences of pain and pleasure (42). In the language of Thomas Nagel, such effects exemplify the influence of constitutive moral luck, otherwise acknowledged as “[one’s] character traits, inherent inclinations, and emotional temperament” (3). There is a wide spectrum of circumstances that influence the subjective experience of pains and pleasures and it is this bias of sensibility that explains why some people may be capable of ceasing their substance use while others may not.

Beyond the scope of constitutive moral luck, Bentham acknowledges that “there are other circumstances, relative to man, that may have their influence,” including gender, age, race, rank, and education (51). These secondary circumstances, external to the constitution of man, are often

the basis for public judgement and determinations of individual societal value while the effects of gender, race, class, age, sexual-orientation, and other markers of identity directly impact the ability of individuals to cease their drug use (Ben-Ishai 51). The factors that shape dependence, addiction, and vulnerability are socially constructed and not the natural, physiological effect of substance abuse (Ben-Ishai 46). In this way, “the social isolation in combination with the other manifestations of exclusion that mark this population’s lived experiences help to account for the struggles of people who are addicted to drugs” (Ben-Ishai 47). These realities highlight the need for a state that is more responsive to the social, economic, and cultural dynamics of addiction.

Bentham writes at length about the impact and authority of government as a secondary circumstance influencing sensibility, especially as it relates to the administration of punishment (56). According to Bentham, “the business of government is to promote the happiness of society by punishing and rewarding” (61). Accordingly, following the principle of utility, “in proportion as an act tends to disturb that happiness, in proportion as the tendency of it pernicious, will be the demand it creates for punishment,” (Bentham, 61). Bentham suggests that legislators and judges recognize and acknowledge the circumstances that may exert influence over the bias of sensibility, but only to determine the ways in which punishment may alter or repair that sensibility (59). However, Bentham also notes that:

All punishment is mischief: all punishment in itself is evil. Upon the principle of utility, if it ought to be at all admitted, it ought only to be admitted in as far as it promises to exclude some greater evil. (134)

Consequentially, punishment should not be administered when the punishment does more harm than the punishable action (Bentham, 138). The failures of prohibition, including the widespread criminalization of non-violent drug users and the increasing number of opioid-related deaths, are

unquestionably in conflict with this principle.

Mill argues that utilitarianism is the only reasonable standard of morality and views it as a practical moral theory when contrasted with others (19). Decriminalization and harm-reduction practices represent an embodiment of this principle in that they are practical, realistic approaches to addiction and are not based on an idealized, abstinence-based model (Elliot et al., 3). Currently, Portugal is the only country to have implemented a comprehensive drug decriminalization framework, as a response to the medical and social issues associated with injection drug use and addiction (Greenwald 14). Under this framework, “decriminalization compromises removal of a conduct or activity from the sphere of criminal law. Prohibition remains the rule but sanctions for use and its preparatory acts no longer fall within the framework of the criminal law” (European Monitoring Centre for Drugs and Drug Addiction, 4). There is no distinction made between types of drugs, meaning the administrative sanction for use or possession is the same whether for cannabis, cocaine, heroin, or any other illicit substance (Greenwald 3). Rather than applying a criminal penalty, the state refers the drug user to a commission that may vote to dismiss the case, apply a monetary fine, or mandate treatment for more serious cases (Greenwald 3). The objective of such processes is to “avoid the stigma that arises from criminal proceedings,” recognizing that the implication of criminal guilt is unproductive to the overarching goal of reducing substance abuse and treating addiction (Greenwald, 6).

The results of widespread decriminalization in Portugal have been overwhelmingly positive, with lifetime prevalence rates declining for almost every category of drug, in almost every population, as well as for drug use overall (Greenwald 14). Additionally, drug-related mortality rates and rates of infection related to intravenous drug use have also decreased

dramatically due to the implementation of widespread harm-reduction measures and a political focus on treatment over criminal punishment (Greenwald 17). The consensus among drug researchers and policy makers in Portugal is that:

Decriminalization has been beneficial for existing drug users, principally because decriminalization has resulted in earlier intervention and the provision of more therapeutic and targeted responses to both drug and drug-related problems. Through providing problematic drug users with a better system of detection and referral to treatment the [commissions] increase the ability to address the causes and harms from problematic drug use. (Greenwald 19)

While many of the medical and social benefits of decriminalization have materialized in Portugal since its implementation in 2001, many of the arguments made against its implementation, such as increased crime or drug tourism, have not (Greenwald 27). From an objective, evidence-based view, given the limited information from the only entirely permissive jurisdiction, decriminalization is an effective, practical, and compassionate alternative to prohibition.

Utilitarianism holds people accountable for their chosen actions but also for their failure to act. The utilitarian doctrine of negative responsibility holds that we are as responsible for the things we fail to prevent as we are for the things we bring about ourselves (Mill 29). Trends from the United States indicate that, for the first time in half a century, life expectancy is actually shorter for younger generations as an effect of the number of opioid-related overdose deaths (United Nations Office on Drugs and Crime 10). A March, 2018 op-ed piece in the Vancouver Sun, written by Caitlin Shane, asks us to:

Consider the thousands of Canadians who, when cut off from opioid pain prescriptions in recent years, did not miraculously stop needing or using opioids. Given the options of

unbearable pain and buying opioids from the illicit market, many were forced to choose the latter. Amidst a fentanyl-saturated supply, this is how we sentence people to death. . . As eight Canadians die each day, the blood that flows from our laws and policies is on our hands.

Government statistics from September, 2018 now suggest that eleven deaths per day in Canada are attributable to opioids, demonstrating the rapid acceleration of this crisis (Special Advisory Committee on the Epidemic of Opioid Overdoses). While not every person who is prescribed opioids becomes dependant or addicted and not every person addicted to opioids began their addiction with a legitimate prescription, the fact remains that policies of prohibition and criminalization are resulting in the unnecessary deaths of thousands (Canadian Mental Health Association 2).

The government has failed to provide adequate funding for addiction and mental health services and the supports that do exist cannot meet the demand for treatment or are inaccessible to those most in need of them, largely due to the cost of treatment (Canadian Mental Health Association 7). It is the failure of the government to implement proactive drug policies and it is the failure of individuals and communities to demand such policies of their governments (Elliot *et al.* 26). It is also profoundly unethical to deny care that may save lives, including the prevention of infections such as HIV/AIDS and fatal overdoses with needle exchange and safe injection sites (Elliot *et al.* 15). While it may not be possible to eliminate all kinds of vulnerability related to drug use, “society can and does mediate, compensate, and lessen our vulnerability through programs, institutions and structures” (Ben-Ishai 41). Decriminalization and harm-reduction policies may be less favourable alternatives for those who continue to support absolute abstinence and prohibition, but given the lack of affordable, accessible supports and services,

they are currently the most pragmatic strategies with which to address the crisis levels of intravenous drug use, infection, addiction, and the other consequential harms of drug use under prohibition.

Additionally, Mill notes that due to the complexity of human nature, no action can be absolutely obligatory or absolutely condemned (71). Similarly, Bentham notes that nothing is good or bad in itself, but is good or bad based upon the amount of pleasure or pain it creates or prevents (73). Abstinence and prohibition treatment models are generally premised on a moral opposition to drug use and not evidence-based best practices. However, moralizing about drug use should not be the basis on which policy decisions about health care, treatment, and services are made (Elliot *et al.* 16). What produces the greatest utility may contradict the personal beliefs of individuals but the demands of utilitarianism require us to choose actions we may oppose in order to serve the ends of greater happiness (Mill 29). We may not personally support substance abuse or the behaviours of addicted persons, but if decriminalization and harm-reduction have been demonstrably shown to result in better outcomes and consequences than abstinence-based or other treatment models, we should accept and support their use.

Mill also places significant value on the genuine experience of individuals, stating that “moral questions are questions of observation and experience,” and continues by asking “what means are there of determining which is the acutest of two pains, or the intensest of two pleasurable sensations, except the general suffrage of those who are familiar with both?” (22). The principles of harm-reduction also acknowledge the importance of validating the lived experiences of drug users (Harm Reduction Coalition). If we recognize lived experience as policy expertise and a guiding principle of harm-reduction practices, drug users must be actively included in the creation of the programs that are designed to serve them (Centre for Addiction

and Mental Health). Therefore, programs and policies that have had positive results and are supported by the communities that access them and to which they are accountable, should be expanded and maintained.

Utilitarianism is also a demanding moral theory, in that it requires that the pleasure and pain of each individual be given equal weight “whether it is to be experienced by me, a friend or relative of mine, or a complete stranger” (Mill 17). Those in opposition to progressive drug policies are largely indifferent or actively hostile towards drugs users, valuing their own moral superiority above the health, happiness, and well-being of those struggling with addiction. Mate, in his personalized account of addiction in Vancouver’s Downtown Eastside reminds readers that addicted persons feel “undeserving in their own eyes and in those of society” (Mate 12). A nurse also working in the Downtown Eastside notes that:

Criminalization and stigmatization affect not only drug users’ capacities for autonomy – whether or not they can choose what they do in their lives or make broader life plans – but also the way they see themselves: how, through the lens of other people’s misrecognition of their intentions and motivations, they come to devalue their own capacities and self-worth. (Ben-Ishai 49)

Gabour Mate suggests that “the question is never ‘why the addiction?’ but ‘why the pain?’” (34). Society must come to view those struggling with addiction as worthy of care and compassion, but also worthy of the legislative effort to end prohibition and implement policies that work to empower this vulnerable population.

It may be psychologically comforting to think that, in similar circumstances, we would each be capable of avoiding the pitfalls of addiction but this cognitive dissonance only serves to obscure the ways in which, according to Dr. Mate, “in the dark mirror of addicts’ lives, we can

trace the outlines of our own” and how, “we condemn the addict for qualities we dare not acknowledge in ourselves” (301). This is effectively the myth of the meritocracy, wherein hierarchies of status and wealth are supposedly determined solely by perceived merit (Appiah).

While this belief may persevere, Jill Stauffer reminds us that:

We may think we are the outcome of the choices we have made but our choices will be only one part of the story of how we become the selves that we are. Social conditions; friends, families, and strangers; cultural values; chance encounters; environmental factors – all of these and more will play a role. We are shaped by the worlds in which we subsist. (2)

We frequently believe ourselves to be “capable of consenting – or refusing to consent – to the conditions in which we live” (Stauffer 10). This perspective, informed by a belief in the outcomes of meritocracy, has a limited place for empathy and understanding but not for assessments of moral failure and blame. The late Claudia Card expanded on the concept of empathy when she wrote:

Uncovering particular histories, such as those underlying our racial and ethnic social identities, can help us to appreciate who it is our moral luck to have become, to determine what responsibilities we now have, how we are related to one another, the meanings of the institutions in which we now participate and by which we have formed, and what kinds of choices we now have. (Reed 164)

This introduces the idea that those who have had the moral fortune to lead fulfilling, productive lives have a responsibility to those who have not. In the context of public policy, a society that is largely constituted of morally fortunate individuals has the obligation to pass legislation, like drug decriminalization, to balance the moral inequity.

The social and political will to foster agency in drug users rather than vulnerability does not end with the achievement of individual liberties. For Mill, “justice progresses towards a broader equality” (Perksky 288). Mill’s progressive form of utilitarianism seeks to achieve liberal democratic equality as a means to achieve more equitable distributions of luck or luck egalitarianism (Perksky 288). Under prohibition, the capacity of drug users for expressions of agency and meaningful choice related to healthcare is limited by the immediacy and shame associated with injection drug use (Ben-Ishai 49). Conversely, policies of decriminalization, supported by policies of harm-reduction, provide real alternatives to criminalization, overdose, and death (Ben-Ishai 45). Such policies also affirm to drug users that their behaviour does not place them beyond the reach of the health-care system or outside the scope of societal care and concern (Ben-Ishai 52).

For Bentham, the consideration of the circumstances influencing sensibility was only relevant to the administration of sanctions (60). The business of judges and legislators was not to prioritize the well-being of the individual before the court, but rather, how to ensure the punishment they administer is most effective. However, Bentham also notes that it is not only every individual action that must conform to the principle of utility, but also every measure of government (14). The traditional deterrence objective of individual punishment may conform if one has a very narrow understanding of the principle. However, in order to address the individual and societal harms of substance abuse, the principle of utility must be approached with a wider view, one that progresses towards Mill’s vision of broader equality. Bentham writes that “it is vain to talk about the interest of the community without understanding what is the interest of the individual,” that is, the interests of a community are constituted by the interests of its individuals (15). Government policies must also conform to this logic by implementing policies that tend to

support the happiness of a community, more than they diminish it (Bentham 15). Governments, societies, and communities must be grounded on widespread sympathetic affections rather than narrow self-interested ones, those which conform more to the principle of utility (Bentham 56). In order to meet the needs of individuals and communities, society must work to expand their sympathetic sensibility, defined by Bentham as “the propensity that a man has to derive pleasure from the happiness, and pain from the unhappiness, of other sensitive beings” (47). It is the capacity of others to empathize with the circumstances of people who use drugs or struggle with addiction that will inevitably encourage the realization of progressive drug policies.

Mill writes significantly on disease and poverty as factors outside of the control of individuals, categories that problematize the distinction between luck and individual choice (Perksky 292). The misguided or uninformed perception of what is and is not within our control is often the basis upon which assertions of moral blame are ascribed to drug users. Mill emphasized that poverty was the result of birth and circumstance but that governments and societal institutions exert influence that serves to maintain conditions of poverty (Perksky 294). For many people, luck and poverty, or poverty as a result of luck, is the greatest barrier to achieving meaningful individual development, which Mill viewed as essential to achieving the utilitarian good (Perksky 295). According to author and journalist, Sarah Kendzior:

When wealth is passed of as merit, bad luck is seen as bad character. This is how ideologues justify punishing the sick and the poor. But poverty is neither a crime nor a character flaw. Stigmatize those who let people die, not those who struggle to live.

Bentham, for whom intoxication was simply “a temporary insanity” (136), likens mental and physical health by noting that “extraordinary degrees of mental imperfection, which, wherever they take place, are as conspicuous and unquestionable as lameness or blindness in the body”

(47). However, unlike addiction, we do not blame people for becoming physically ill or deny them treatment on the grounds that, in the view of policymakers, they have contributed to their own illness. Those who smoke are not denied treatment for respiratory disease on that basis. Those who regularly consume an excess of salt or red meat are not denied treatment for heart disease on that basis. Yet, those struggling with addiction are frequently denied treatment based on the widespread public perception that addiction is simply a failure of individual will, rather than a complex interaction of physical, psychological, and social factors.

The fact that drugs are illegal shapes everything: every action and interaction a person with an addiction may experience (Ben-Ishai 49). It limits the capacity for individual agency by preventing drug users from participating in social life, accessing public spaces, and meeting their basic needs. Even access to many spaces and services, such as community housing or addictions treatment programs, are premised and remain conditional upon the cessation of drug use (Ben-Ishai 48). In Portugal, the only jurisdiction to have implemented full decriminalization, fines for drug use are to be a penalty of last resort and minimal if imposed at all, in recognition of the hardships that a financial penalty may impose upon potentially vulnerable, drug-using individuals (Greenwald 3).

For Mill, true justice begins with the social utilities created and sustained through equality (Perksky 295). Mill writes that “the equal claim of everybody to happiness. . . involves an equal claim to all the means of happiness” (336). He premises this by restricting equal claims “insofar as the enviable conditions of human life, and the general interest, in which that of every individual is included, set limits to the maxim” (336). However, these necessary inequalities are viewed more as historical markers of expediency as society moves to recognize history as a progressive process (Perksky 296). This progressive development of justice and greater equality

would reach a point wherein “people would regard working for the benefit of others as a good in itself” (Perksky 296). While Mill does not define the institutional changes by which such progress may develop, it is clear that this progress must include, to some degree, the erosion of social and economic inequalities that arise from the arbitrary nature of moral luck (Perksky 297).

Finally, Mill is of the belief that utilitarian reasoning may be a means to end social suffering. He writes:

Poverty, in any sense implying suffering, may be completely extinguished by the wisdom of society, combined with the good sense and providence of individuals. . . . As for vicissitudes of fortune, and other disappointments connected with worldly circumstances, these are principally the effect of either gross imprudence, of ill-regulated desires, and bad or imperfect social institutions. . . . Unless such a person, through bad law, or subjection to the will of others is denied the liberty to use the sources of happiness within his reach, he will not fail to find this enviable existence, if he escapes. . . . the great sources of physical and mental suffering such as indigence, disease, and the unkindness, worthlessness and premature loss of objects of affection. The main stress of this problem lies, therefore, in the contest with these calamities from which it is rare good fortune to escape. (Mill 62)

Here Mill recognizes that it is not exclusively moral fortitude that award status and position, nor is it exclusively moral failure that condemns one to a marginalized station in life. It is a complex interaction of misfortune and luck that continues to place people with addictions on the margins of society. This concept also aligns with the principles of harm-reduction that acknowledge the intersections of oppressions such as racism, sexism, and poverty in compounding the negative

effects of addiction (Harm Reduction Coalition).

Conclusion

Utilitarianism has been critiqued as an uncaring moral theory, but in the case of decriminalization and the treatment of addiction, the reverse is true (Mill 66). Mill responds, writing that, “to do as one would be done by, and to love one’s neighbour as oneself, constitute the ideal perfections of utilitarian morality” (Mill 64). Gabor Mate suggests we may not be so uncaring if we truly knew the pain that led individuals to inject drugs (13). Abstinence-based models object to the perceived promotion and support of drug use and effectively allow drug users to continue suffering rather than support a legal framework or treatment program to which they are morally opposed. Conversely, a utilitarian analysis of decriminalization supports a compassionate, client-centered, and non-judgemental approach to the problem of substance abuse, intravenous drug use, and addiction. This is a profound acknowledgement of the dignity and humanity of drug users, something that society has failed to recognize as it continues to demonize and criminalize them (Elliot *et al.* 16).

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